Patrician College of Arts and Science

DEPARTMENT OF COMMERCE

INCOME TAX LAW AND PRACTICE II

SUBJECT CODE CVZ6A

EVEN SEMESTER

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CAPITAL GAINS

SECTION-45(1) CHARGING SECTION

INTRODUCTION:

A capital gain refers to profit that results from a sale of a capital asset, such as stock, bond or real estate, where the sale price exceeds the purchase price. The gain is the difference between a higher selling price and a lower purchase price.Conversely, a capital loss arises if the proceeds from the sale of a capital asset are less than the purchase

Types of Capital Gains

1. Short Term Capital Gains

2. Long Term Capital Gains

SHORT TERM CAPITAL GAINS

Short Term Capital Gains are those that you earn when you sell an asset in under 12 months from the date on which you acquired the asset. Long Term Capital Gains are those that you earn when you sell an asset after 12 months from the date on which you acquired the asset.

SHORT TERM CAPITAL GAINS

1)Find full value of consideration
2)Deduct the followings.
a) Expenditure incurred wholly and exclusively in connection with such transfer.
b) Cost of acquisition.
c) Cost of improvement
3) From resulting sum deduct exemption provided by u/s54 B, 54 D, 54 G, 54GA
4) The balancing amount is Short Term Capital Gain.

FULL VALUE OF CONSIDERATION

Full value means whole price without any deduction and consideration in which transferor receives in lieu of asset he parts with.

EXPENDITURE ON TRANSFER

Expenditure incurred wholly and exclusively in connection with transfer of capital asset is deductible from full value of consideration. This means expenditure incurred which is necessary to effect the transfer like brokerage commission, cost of stamp, registration fees and all.

COST OF ACQUISITION

Cost of acquisition of an asset is the value for which it is acquired by the Assessee, expenses of capital nature for acquiring the title are include in cost of acquisition.

LONG TERM CAPITAL GAIN

A long-term capital gain or loss is the gain or loss stemming from the sale of a qualifying investment that has been owned for longer than 12 months at the time of sale.

LONG TERM CAPITAL GAINS

1) Find full value of consideration
2) Deduct the followings
a) Expenditure incurred wholly and exclusively in connection with such transfer.
b) Indexed Cost of acquisition.
c) Indexed Cost of improvement.
3) From resulting sum deduct the exemption provided by section 54, 54 B, 54 D,
54 EC, 54 EE, 54F, 54 G, 54 GA and 54GB.
The balancing amount is Long Term Capital Gain/Loss.

INDEXED COST OF ACQUISITION OR IMPROVEMENT

COST INFLATION INDEX

"Cost inflation Index" in relation to a previous year, means such index as the Central Government having regard to 75% of average rise in the consumer price index for the immediately proceeding previous year to such previous year.

INDEXED COST OF ACQUISITION

Cost to previous owner is considered as cost of acquisition to the assessee if that capital asset become property in cases like.

a) Distribution of asset on partial or total partition of Hindu Undivided Family.

b) Acquisition of property under gift and will.

c) Acquisition of property by a HUF where one of its member has converted his self acquired property into joint family property after Dec 31-1969.

Sec 45(1A)-CAPITAL GAINS ON INSURANCE CLAIMS

- ***Where any person receives at anytime during the year any money or other assets under an insurance from an insurer on account of damage to ,or destruction of any capital asset, as a result of-***
- ***(i) Flood, typhoon, hurricane,cyclone,earthquake etc***
- ***(ii)riot or civil disturbance***
- ***(iii) accidental fire or explosion***
- ***(iv)action taken by an enemy or action taken in combating an enemy***
- ***Then any Capital gains arising from the receipt of such money or other assets shall be chargeable to tax***

- ***Sec 45(1A) is not attracted if an asset is destroyed and no insurance compensation is received. Such a destruction of asset shall not be treated as transfer and thus there will be no Capital Gains. The cost of the asset destroyed shall be a capital loss which has no tax treatment.***
- ***The Capital gains shall not be taxable in the year in which asset is destroyed but shall be taxable in the year in which Insurance money is received or an asset is received from the Insurance company. (Exception to charging section 45(1).***

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OTHER SOURCES OF DIRECT TAX

➢ **There are 5 sources stipulated under the INCOME TAX ACT 1961.**

- SALARY
- BUSINESS
- HOUSE PROPERTY
- PROFESSION
- CAPITAL GAINS

- HERE ARE SOME COMMON TYPES OF INCOME WHICH NEED TO BE DISCLOSED UNDER THE HEAD **“INCOME FROM OTHER SOURCES”**.

- **Gifts :**

  Specified assets include gifts received in kinds such as immovable assets like Land and Building and Properties such as jewellery, paintings, etc.

- **Lottery and Betting :**

  * Winning from Lotteries, Crossword puzzles, Races, Card game, Gambling is classified as Income from other sources. The entire income shall attract 30% under section 115BB of the act.

  * The expenses incurred in the getting income is not allowed as an exemption in computing the income.

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- **Income from Dividend :**

  * The Dividend income received from the company which pays dividend distribution tax is normally exempt.
  * If you have invested in shares of a foreign company, the dividend will be taxable under other sources.

- **Interest Income :**

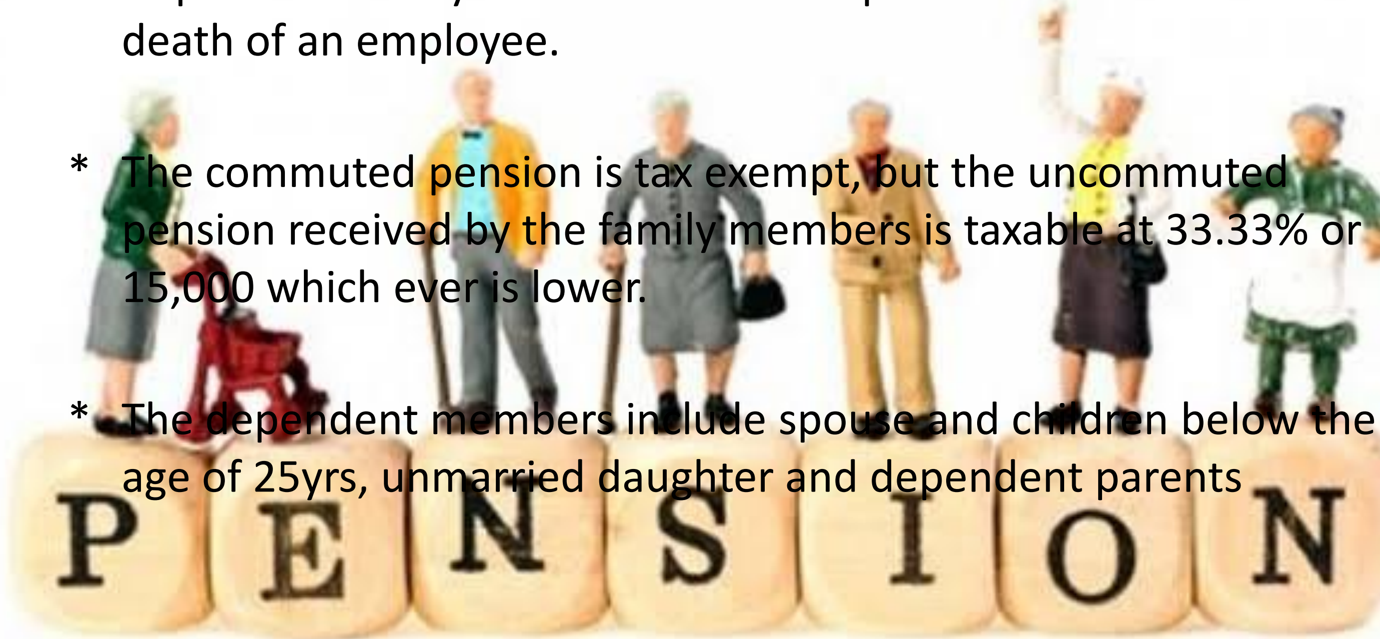
  * The interest earned on the saving a/c as well as interest on fixed deposit need to be reported under other sources of income.
  * Make sure you register your income accruals while filing your return and claim tax exemption on your savings a/c.

- **Pension Income :**

  * Dependent family members receive a pension income after the death of an employee.

  * The commuted pension is tax exempt, but the uncommuted pension received by the family members is taxable at 33.33% or 15,000 which ever is lower.

  * The dependent members include spouse and children below the age of 25yrs, unmarried daughter and dependent parents



Thank you

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